

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20682 (Application 29160)
Chase Knoble-Hamilton and Beverly A. Hamilton

NOTICE OF PROPOSED REVOCATION

SOURCE: Unnamed Stream tributary to Cosumnes River

COUNTY: El Dorado

You are hereby notified that, pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is proposing to revoke Permit 20682 because the Permittees have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 20682 and have not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations.

In addition, the Division proposes to revoke Permit 20682 because the Permittees have failed to use beneficially all or part of the water for the purpose for which it was appropriated in accordance with the Water Code.

The proposed revocation is based upon the following facts, information and conclusions:

The State Water Board issued Permit 20682 on September 8, 1993. The permit authorizes Chase Knoble-Hamilton and Beverly A. Hamilton (Permittees) to divert 24.5 acre-feet per annum to storage from October 1 of each year to April 30 of the succeeding year.

The permit required that construction work have been completed by December 31, 1996, and that the water be applied to the authorized use by December 31, 1997.

A. PERMITTEES HAVE FAILED TO COMMENCE, PROSECUTE WITH DUE DILIGENCE, AND COMPLETE THE WORK NECESSARY TO APPROPRIATE WATER UNDER THE PERMIT

1. Permittees failed to complete construction of the project by the December 31, 1996 deadline. Progress Reports by Permittee for 1993 and 1995 state that construction work had not commenced.
2. Progress Report by Permittee for 1996 states that land clearing occurred, but 99 percent of construction remained to be done. Nonetheless, the Permittees claimed that irrigation was 100 percent complete. A note on the report indicates that irrigation was actually occurring under Permit 17822.
3. No Progress Reports by Permittee were filed for 1997 and 1998.
4. Permittees failed to complete application of water to beneficial use by the December 31, 1997 deadline, and therefore have not made full beneficial use of the water as contemplated in the

permit and in accordance with the Water Code and rules and regulations of the State Water Board.

5. The 1999 Progress Report by Permittee indicated work on the bypass/siphon occurred, but most of the construction work had not been completed. Water use was reported, but Permit 17822 was also referenced. Permit 20682 only authorizes collection to storage in a reservoir. Since the reservoir authorized under Permit 20682 has not yet been built, none of the water use can be credited to Permit 20682.
 6. The Progress Reports for 2000 and 2003 (2001 and 2002 not submitted) indicate that some construction has been done, but construction is not complete. Progress Reports have not been submitted since 2003.
 7. A March 25, 2004 complaint investigation report prepared by the Division confirms that the reservoir has not been built.
 8. On August 24, 2004, Permittees filed a petition with the State Water Board requesting an extension of time for Permit 20682. The petition states that no work has been done on the project. Construction of the reservoir proposed by Permit 20682 had not commenced because of other water use arrangements with the adjacent property owner.
 9. On December 26, 2006, the Division denied the petition for time extension because Permittees failed to show: (1) that Permittees exercised due diligence; (2) that failure to comply with previous time requirements was the result of obstacles that could not be reasonably avoided; and (3) that satisfactory progress would be made if the Division granted the extension.
 10. The Permittees have not built the project reservoir and put water to beneficial use pursuant to Permit 20682.
 11. Permittee's time extension petition was not approved and therefore the original deadline to complete application of water to beneficial use remains effective.
- B. PERMITTEES HAVE NOT APPLIED THE WATER TO BENEFICIAL USE CONSISTENT WITH THE TERMS AND CONDITIONS OF THE PERMIT

Permit 20682 authorizes the collection and use of water subject to permit term 9, which required the complete application of the water to the authorized use to have been made by December 31, 1997. The reservoir authorized by Permit 20682 to collect the water was never constructed, therefore, no application of the water could be made.

- C. BASED ON THE ABOVE FACTS AND INFORMATION, THE DIVISION CONCLUDES THAT CAUSE EXISTS FOR THE REVOCATION OF PERMIT 20682 PURSUANT TO WATER CODE SECTION 1410, SUBDIVISION (a) BECAUSE:
1. Permittees have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 20682 and have failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.
 2. Permittees have not made beneficial use of the water consistent with the terms and conditions of the permit. Permittees violated term 9 of Permit 20682.

As required by Water Code section 1410.1, you are hereby notified that unless the Division receives a written request for a hearing, signed by or on behalf of the Permittees, the State Water Board will revoke Permit 20682, based on the above facts, information and conclusions. The written request for hearing must be postmarked or delivered no later than 15 days from the receipt of this notice. You may request

a hearing by delivering or mailing the request to the State Water Board at the following address within the time period provided: Division of Water Rights,
1001 I Street,
P. O. Box 2000,
Sacramento, CA 95812-2000.

Based on the above facts and conclusions, the State Water Board, Division of Water Rights will revoke Permit 20682 unless the Division receives a written request for hearing within the time period specified above.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
for Victoria A. Whitney, Chief
Division of Water Rights

Dated: JUN 19 2008

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20682

Application 29160 of Chase Knoble-Hamilton and Beverly A. Hamilton,

7265 Chaparral Drive, Latrobe, CA 95682

filed on December 24, 1987, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

<u>Unnamed Stream</u>	<u>Cosumnes River</u>
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<u> </u>	<u> </u>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
UNNAMED RESERVOIR: NORTH 1,750 FEET AND WEST 2,050 FEET FROM SE CORNER OF SECTION 22	NW $\frac{1}{4}$ OF SE $\frac{1}{4}$	22	8N	9E	MD

County of El Dorado

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
RECREATION						
DOMESTIC	AT RESERVOIR WITHIN NW $\frac{1}{4}$ OF SE $\frac{1}{4}$	22	8N	9E	MD	
IRRIGATION	NW $\frac{1}{4}$ OF SE $\frac{1}{4}$	22	8N	9E	MD	15

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 24.5 acre-feet per annum to be collected from October 1 of each year to April 30 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Construction work shall be completed by December 31, 1996. (0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1997. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. Permittee shall install and properly maintain in each reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow Rancho Murietta Community Services District, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoir. (0070047)
(0100047)

16. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing. (0000080)

17. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the San Joaquin River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing. (0000090)

18. The total quantity of water diverted under this permit, together with that diverted under the permit issued pursuant to Application 25649, shall not exceed 24.5 acre-feet per annum. (0000114)

19. This permit is specifically subject to the prior rights of Rancho Murietta Community Services District under appropriation issued pursuant to License 537 (Application 1838), License 2629 (Application 2296), License 6238 (Application 16142), and Permit 16762 (Application 23416). (0160800)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

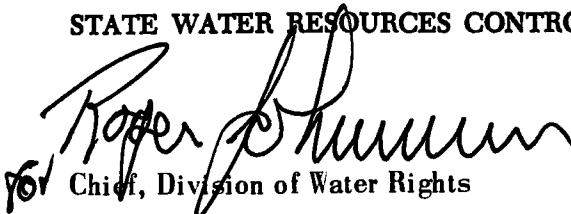
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: SEPTEMBER 8 1993

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights